

Before the Board of Zoning Adjustment, D. C.

PUBLIC HEARING -- June 15, 1966

Appeal No. 8810 A. W. Butler et ux, appellants.

The Zoning Administrator of the District of Columbia, appellee.

On motion duly made, seconded and carried with Mr. Hatton dissenting, the following Order was entered at the meeting of the Board on June 22, 1966.

EFFECTIVE DATE OF ORDER -- August 8, 1966

ORDERED:

That the appeal for a variance from the provisions of Section 3301.1 requiring 900 square feet per unit in conversion of single family dwelling into 3 apartments at 1914 - 11th Street, NW., lot 35, square 305, be granted.

FINDINGS OF FACT:

- (1) Appellants' property is located in an R-4 District.
 - (2) Appellants' lot has a frontage of 21.6 feet on 11th Street, NW. and a depth of 93 feet. The lot contains 2,008 square feet of land.
 - (3) The lot is improved with a two-story brick row dwelling with an English type basement. There is a two car garage in the rear of the lot.
 - (4) Appellants' state that other houses in the same block are used as multiple family dwellings.
 - (5) The size of the lot is less than required by the Zoning Regulations in the R-4 District, which requires 2,700 square feet of land in order to convert to three apartment units.
 - (6) No opposition to the granting of this appeal was registered at the public hearing.
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OPINION:

We are of the opinion that appellant has proved a hardship within the meaning of the variance clause of the Regulations, and that a denial of the request will result in peculiar and exceptional practical difficulties and undue hardship upon the owner.

We are further of the opinion that this relief can be granted without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Reference is made to the opinion forming part of our Order in Appeal No. 8631 for a statement of the reasons of the majority of the Board for granting this and similar appeals.

OPINION BY MR. HATTON:

The Zoning Regulations permit the conversion of an existing building in the R-4 District to apartments provided that there are 900 square feet of land to support each unit that is created. The subject property has 2,008 square feet of land and can, therefore, substantiate two apartments as a matter of right. In granting this appeal, the Board has given a 700 square foot variance and, in so doing, increased the density by one apartment unit or 50 percent. The two apartments that may be built as a matter of right may not be in the most practical and economic utilization of the site, however, in my opinion, this is a reasonable use of the premises. It is my further opinion that the magnitude of the variance violates the intent and purpose of the Zoning Regulations, whereas, a request for a variance of 100 or 200 square feet would not.

The frequency of this type of appeal indicates that the 900 foot provision of the R-4 District Regulations may be inappropriate, and in such a case, the Zoning Commission should study the matter and consider amending the Regulations. In the meantime, the Board should support the existing Regulations and only grant a variance when it is substantiated by unusual hardship as set forth in Section 8207.11, and when the extent of the variance does not violate the intent and purpose of the Zoning Regulations and plans. It is not the function of the Board to judge the merits of the Regulations.